

### REMARKS

Claims 1-7 are pending. Claims 1-7 have been amended to respond to rejections, discussed below, or to correct an obvious spelling error. Claims 8-26 are hereby cancelled as drawn to a non-elected invention. Applicants reserve the right to pursue the subject matter of the cancelled claims without prejudice at a future time.

#### Restriction Requirement

The Examiner has divided the claims of the pending application into three groups, of which Group I (claims 1-7, drawn to compounds) is hereby elected without traverse. Further, applicants hereby elect the species of compounds 5 and 6, for search and examination purposes only. Applicants affirm these elections made during the telephone conversation with the Examiner on July 7, 2008.

#### Rejections Under 35 U.S.C. §112, Paragraph 1

Claims 1-7 have been rejected as non-enabled for compounds of Formula I wherein Ar is heteroaryl, X is oxygen, sulfur or NR, and Y is  $\text{CHR}_3\text{CO}$  or  $(\text{CH}_2)_q$ , wherein q is 1-4. The claims have been amended to recite compounds of Formula I, wherein Ar is aryl, X is no atom and Y is  $(\text{CH}_2)_q$ , wherein q is 0. The rejection is believed to be mooted thereby.

Claims 1-5 have been rejected as non-enabled for solvates, esters, polymorphs and metabolites of compounds of Formula I. The claims have been amended to remove reference to these species of Formula I. The rejection is believed to be mooted thereby.

#### Rejections Under 35 U.S.C. §112, Paragraph 2

Claims 1-5 and 7 have been rejected as indefinite for reciting the plural claim terms "enantiomers," "diastereomers," "N-oxides," "salts," "carriers," "excipients," and "diluent." As discussed during a brief telephonic interview with the Examiner on November 15, 2008, these claims are hereby amended to reflect subject matter of single inventions. Thus, as those of skill in the art recognize that the compounds of Formula I may exist, for example, in a salt form, or in an N-oxide form, or in the form of a single enantiomer, the claims embrace

such individual embodiments of the subject matter, a single invention at a time. Amendment is also made to claims 1-5 to claim "a compound," for the same reasons.

Obviousness-Type Double Patenting

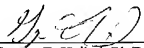
Claims 1-7 have been rejected under the doctrine of obviousness-type double patenting over claims 1-6 of U.S. Patent No. 7,288,562. Applicants herewith submit a Terminal Disclaimer of the term of the claims of the present application as they would extend beyond the patent term of the cited U.S. Patent.

CONCLUSION

Applicants urge the Examiner to reconsider and withdraw the pending rejections, and respectfully request a Notice of Allowance for the pending claims at this time

Authorization is hereby given to charge any fees deemed to be due in connection with this Response to Deposit Account No. 50-0912.

Respectfully submitted,  
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